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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

BANK OF AMERICA, N.A.,

Plaintiff,  
vs.

BACARA RIDGE ASSOCIATION; SFR  
INVESTMENTS POOL 1, LLC; and ALESSI &  
KOENIG, LLC,

Defendants.

Case No.: 2:16 cv 02533-RFB-VCF

**STIPULATION AND ORDER TO  
EXTEND BANA'S RESPONSE DEADLINE  
TO SFR INVESTMENTS POOL 1, LLC'S  
COUNTERCLAIM**

(FIRST REQUEST)

SFR INVESTMENTS POOL 1, LLC,

Counter/Cross Claimaint,  
vs.

BANK OF AMERICA, N.A.; THE BANK OF  
NEW YORK MELLON FKA THE BANK OF  
NEW YORK, AS THE TRUSTEE FOR THE  
BENEFIT OF THE CERTIFICATE  
HOLDERS OF THE CWHEQ IN., HOME  
EQUITY LOAN ASSET-BACKED  
CERTIFICATES, SERIES 2006-S2; and  
DEREK L. SMITH, an individual,

Counter/ Cross Defendants.

Bank of America, N.A. (**BANA**) and SFR Investments Pool 1, LLC (**SFR**) by and through  
their attorneys' of record, hereby stipulate and agree to the following:

1           1.       On November 1, 2016, ECF No. 1, BANA filed its complaint against Bacara Ridge  
2 Association (**HOA**), Alessi & Koenig, LLC (**Alessi**), and SFR.

3           2.       On December 20, 2016, ECF No. 21, SFR filed its answer to the complaint and filed a  
4 counterclaim against BANA.

5           3.       Recently, Alessi filed a voluntary petition under Chapter 7 of the U.S. Bankruptcy  
6 Code and obtained protection under the automatic stay (United States Bankruptcy Court for the  
7 District of Nevada, Case No.16-16593).

8           4.       In light of the impact of the automatic stay, SFR and BANA have stipulated to extend  
9 BANA's response deadline, while BANA works with the bankruptcy trustee to determine the impact  
10 of Alessi's bankruptcy on this matter.

11           5.       Given the forgoing, the parties agree to extend the deadline for filing BANA's response  
12 to SFR's counterclaim in this case for thirty (30) days. The new response deadline is February 10,  
13 2017.

14           6.       This stipulation is submitted based upon good cause, and is not made for the purpose of  
15 delay.

16           7.       This request comes before the Court with less than 21 days before the response  
17 deadline. This Court also requires a showing of excusable neglect when a stipulation to extend comes  
18 before it with less than 21 days before the deadline. LR 26-4. "[T]he determination of whether neglect  
19 is excusable is an equitable one that depends on at least four factors: (1) the danger of prejudice to the  
20 opposing parties; (2) the length of the delay and its potential impact on the proceedings; (3) the reason  
21 for the delay; and (4) whether the movant acted in good faith." *Bateman v. U.S. Postal Service*, 231  
22 F.3d 1220 (9th Cir. 2000).

23           8.       There is no prejudice to any party to extend the deadline as the HOA has not yet  
24 responded to BANA's complaint.

25           9.       The length of the delay and its impact on the proceedings is minimal as the HOA has  
26 not filed a response to the complaint and the requested extension is merely three weeks.

10. The reason for the delay stems from Alessi's bankruptcy filing and BANA's discussions with the bankruptcy trustee. The matter was further delayed as the bankruptcy and discussions with the trustee were stalled due to the holiday season.

11. The parties have acted in good faith and the purpose of this stipulation is not for delay.

DATED this 6th day of January, 2017.

<b>AKERMAN LLP</b>	<b>KIM GILBERT EBRON</b>
<i>/s/ Vatana Lay, Esq.</i>	<i>/s/ Diana Cline Ebron, Esq.</i>
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**ORDER**

**IT IS SO ORDERED:**



**UNITED STATES MAGISTRATE JUDGE**

DATED: January 6, 2017

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